



**Town of Arlington, Massachusetts**  
**730 Massachusetts Ave., Arlington, MA 02476**  
**Phone: 781-316-3000**

**webmaster@town.arlington.ma.us**

## **Selectmen's positions on warrant articles**

### **REPORT OF BOARD OF SELECTMEN TO 2003 ANNUAL TOWN MEETING**

The Board of Selectmen is pleased to present its report containing proposed main motions and comments under various articles in the 2003 Annual Town Meeting Warrant. These proposed votes are the result of numerous meetings during which the Board considered arguments both in favor and opposed to all of the articles. The positions taken by the Board were taken only after the proponents were given notice and ample opportunity to be heard. The Board commends these votes to you for the Town Meeting's consideration.

The Board requests that the Town Meeting consider some changes to Town Meeting procedure on a trial basis. The Board is dedicated to a continuation of a vigorous and effective Town Meeting form of government. The Board, however, does believe that certain changes in procedure might enhance the effectiveness and efficiency of Town Meeting. The Town bylaws require that Town Meeting begin at 8:00 p.m. on the 4th Monday of April unless a different date is determined by the Board. Thereafter, it is the Town Meeting that determines what dates and times it shall meet. The date and time of the next Town Meeting session is determined at the beginning of the previous session by means of a motion proposed by the Board of Selectmen. This year the Board will propose at the May 7th Town Meeting that the next Town Meeting commence at 10:00 a.m. on Saturday May 10th and proceed through the afternoon to approximately 4:00 p.m. with a lunch break to be determined by the Moderator. The Board is of the view that every Town Meeting must get through some initial preliminaries such as the securing of a quorum, the reading of resolutions and other housekeeping details that frequently delay the start of Town Meeting for several minutes. It is hoped that effective use of a "double session" on Saturday might permit the Town Meeting to accomplish more business.

In addition, the Board will consider, after getting a sense of the Town Meeting, proposing a change of the starting time for usual evening sessions from the traditional 8:00 p.m. start to a earlier time, such as 7:00 or 7:30 p.m. with a view towards ending earlier than the now prevailing 11:00 p.m. The Board is cognizant of frequent complaints from some Town Meeting members who must rise early the next day to be at their jobs. The Board wishes to stress that this is a matter solely within control of the Town Meeting and will, of course, defer to the will of the Town Meeting on this point. The Board wishes to note that it has respectful disagreement with the Town Moderator concerning both the desirability of Saturday sessions and changing the starting time of the evening Town Meeting sessions.

Another procedure with which the Board wishes to experiment is a practice which has been adopted by some other representative town meetings in the Commonwealth. These communities have established a so-called two-microphones system. Rather than being recognized by the Moderator from their seats, the proponents of an article line up behind the "pro" microphone and the opponents line up behind the "con" microphone. The proponents and opponents then take turns addressing Town Meeting. The main idea behind trying this procedure would be to permit Town Meeting to recognize whether there is overwhelming support or overwhelming opposition to a particular article. If either is the case, then this show of support or opposition might more readily induce a motion to terminate debate, thus expediting business. The Town Meeting is always free to choose not to terminate debate regardless of the length of the lines behind either microphone.

The Board wishes to emphasize that the above are suggestions for consideration by Town Meeting

calculated to make the business of Town Meeting run more efficiently and effectively. It is up to Town Meeting to determine these matters subject, as always, to the statutory prerogatives of the Town Moderator.

The Board looks forward to the beginning of the 2003 Annual Town Meeting and continues its enthusiastic and whole-hearted support of this purest example of American democracy.

Arlington Board of Selectmen

Kevin F. Greeley, Chairman  
Diane M. Mahon, Vice-Chairman  
Charles Lyons  
Kathleen Kiely-Dias  
John W. Hurd

### **ARTICLE 3 APPOINTMENT OF MEASURERS OF WOOD AND BARK**

To choose and appoint all the usual Town Officers not hereinbefore mentioned, in such a manner as the Town may determine, or take any other action related thereto.  
(Inserted by the Board of Selectmen)

**VOTED:** That, John A. FitzMaurice, 17 Lakeview, be and hereby is appointed Measurer of Wood and Bark until the next Annual Town Meeting.  
(5-0)

### **ARTICLE 7 WARRANT MAILING**

To see if the Town will vote to amend Section 2, "Call of Meetings" of Article 1 "Town Meetings" of Title I of the Bylaws so as to change the language thereof so as not to require the mailing of warrants for state and federal elections,  
or take any action related thereto.  
(Inserted by the Board of Selectmen)

**VOTED:** That Section 2 Call of Meetings of Article 1 of Title I of the bylaws be and hereby is amended by inserting after the fourth sentence thereof the following new sentence: "A copy of the warrant for any state election shall be sent to every dwelling house only to the extent required by the General Laws."  
(5-0)

**COMMENT:** State law does not require the mailing of election warrants for state elections. The current bylaw arguably requires the mailing of state election warrants. This addition to the bylaws will save thousands of dollars in mailing and printing costs.

### **ARTICLE 8 BYLAW AMENDMENT/HISTORIC/ARCHITECTURAL/CULTURAL OVERSIGHT**

To see if the Town will vote to modify the Town Bylaws by adding an Article "Special Places" to Title VI, to read as follows:

Special Places

Section 1 - Intent

The intent of this article is to provide oversight for Arlington's important historic, architectural, and cultural properties by applying a limited amount of protection to the Special Place and to those properties surrounding the Special Place so as to preserve the qualities that make the place "special."

Section 2 – Definitions

The following terms shall have meaning as follows when used in this Article.

A. Commission. The Arlington Historical Commission, except that where a Special Place or Affected Property lies within an Historic District, the term shall refer to the Historic District Commission.

B. Special Place. A Special Place shall be a place in the Town of Arlington of exceptional importance to

the history, culture, or architecture of the Town and which is nominated according to the provisions of this article and so designated by the Town Meeting. Properties designated as Special Places shall be as described by map, block, and lot number on the date of designation regardless of any future subdivision or partition of any such lot.

C. Affected Properties. Affected Properties shall be all properties any part of which falls within 100 feet of the lot line of the designated Special Place. A list of such properties, the Affected Properties roster, shall be developed and maintained by the Town and furnished to the Building Inspector. Properties which become Affected Properties by reason of such designation shall be as described by map, block, and lot number on the date of designation regardless of any future subdivision or partition of any such lot.

### Section 3 - Procedures

#### A. Designation of a Special Place

##### 1. Nomination

A place in the Town may be nominated by the Commission or by registered voters, following usual warrant article requirements, to a regular or special Town Meeting for designation as a Special Place because of its exceptional importance to the history, culture, or architecture of the Town, and the need for it to receive the additional protection so provided. A Study Committee, including representatives of appropriate Town boards, commissions, and committees, shall be appointed by the Commission to conduct a survey of the area of a proposed Special Place, using the Massachusetts Historical Commission survey forms and inventory process, and to prepare a preliminary report for review in the hearing described below.

##### 2. Notification and Hearings

a. Following the closing of the warrant in which an article requesting designation of a Special Place has appeared, the Commission shall notify the property owners who would be affected by the designation of a location as a Special Place and the date, time, and location of the hearing on the matter.

b. The Commission shall hold such a hearing in a timely manner and at least two weeks before the start of the Town Meeting, which will consider the nomination.

3. Town Meeting Action. A two-thirds vote of the Town Meeting shall be required to designate a Special Place. Upon designation, a Special Place shall be added to the Town's inventory of Significant Properties unless it is already on that inventory.

#### B. Removal of a Special Place Designation

The process for removal of a "Special Place" designation shall be the same as that for designating it.

#### C. Protection of Special Places

##### 1. Procedure

a. The Building Inspector, within five business days of receipt of an application for a building or demolition permit on a site that is a Special Place or is on the Affected Properties Roster, shall verify the accuracy of the information contained in the application and shall cause a copy of each such application to be forwarded to the Commission. No permit shall be issued at that time.

b. Within 30 days of receiving a copy of such application, the Commission shall schedule and hold a hearing on any application and shall give legal notice thereof to the applicant, to the owners of all abutting or affected properties to that which is the subject of the hearing, and to any other party the Commission deems appropriate to notify. The Chair of the Commission may notify the Building Inspector where the changes proposed by the applicant are less than 25% of the facade that the changes are too minor to require a hearing and the building permit may then be issued.

c. The Commission shall consider only external features subject to public view, and shall not consider interior arrangements or the use to which any structure may be put. The Commission shall also not consider replacement in kind of a structure or built environment, a permit for which may be issued without Commission approval. The Commission will establish criteria for its review.

d. If, after such hearing, the Commission determines that the action proposed by the applicant would be adverse to the qualities that make the "Special Place" special, it shall so notify the Building Inspector and the applicant, and the requested permit shall not be issued. If the Building Inspector has not received such notification within 15 days of the closing of the hearing, or has received notice from the Commission that the proposed action would not adversely affect the "Special Place", (s)he may, subject to the requirements of the State Building Code and any other applicable laws, rules, and regulations, issue the requested permit.

##### 2. Appeal

An adverse decision of the Commission may be appealed by the applicant to the Board of Selectmen within 30 days of publication of the adverse decision. The Selectmen shall act on the appeal within 30 days of its filing or as otherwise agreed to by all parties. Should the Board of Selectmen by an affirmative vote of at least four members overrule the decision of the Commission, it shall so notify the Building Inspector and (s)he may issue the requested permit.

#### D. Building Inspector

Nothing in this article shall be construed to derogate in any way from the authority of the Building Inspector derived from Chapter 143 of the General Laws. However, the Building Inspector shall make every reasonable effort to inform the Chairperson of the appropriate commission before initiating action that affects a Special Place or Affected Property.

E. Historic Districts Act

Nothing in this article shall be deemed to conflict with the provisions of the Historic Districts Act, General Laws, Chapter 40C, or the bylaws affecting Historic Districts. Any Special Place or Affected Property within an Historic District shall be dealt with by the appropriate Historic District Commission.

F. Severability

If any section, paragraph or part of this article is for any reason declared invalid or unconstitutional by any court, every other section, paragraph and part shall continue in full force and effect, or to take any action related thereto.

(Inserted at the request of Zoning Bylaw Review Committee)

**VOTED:** That no action be taken under Article 8 of the Warrant.

(5-0)

**COMMENT:** This article was submitted by 10 registered voters and is a request to amend the bylaws to establish a framework by which the Historical Commission would have oversight and control over "special places" as well as over properties within 100 feet of the lot line of these designated sites in the Town. This matter was the subject of a warrant article last year proposing special legislation which would have authorized this proposed bylaw. Although the Joint Committee on Local Affairs of the legislature reported out favorably on this matter it was never enacted into law. It is believed that it failed of enactment due to the far-reaching effects that it would have on property owners in Town who abut these special places. It apparently was also felt that since such a controversial piece of legislation had received only a bare majority from Town Meeting last year that such a lack of consensus was insufficient to convince the legislature to pass the law. The proponents of this warrant article this year did not appear before the Selectmen at the hearing held by the Board on this matter nor did they request to be heard after the initial hearing was held which request would have been accommodated. The Board recommends a no action vote.

## ARTICLE 9 BYLAW AMENDMENT/ DOG PARKS

To see if the Town will vote to amend the Town Bylaws Title IV, PUBLIC AREAS, Article 1, **USE OF AREAS UNDER CONTROL OF PARK DEPARTMENT**, Section 7, Animal Control, to allow dogs to be off leash in areas designated as a "Dog Park", "Dog Run" or "Dog Exercise Area", by adding the following wording (underlined):

No person shall cause or permit any animal owned by him or in his custody or under his control, to roam or be at large, in, on or through any park or playground, **except in any area designated by the Town of Arlington as a "Dog Park", "Dog Run" or "Dog Exercise Area"**, under the care and control of the Park Department, except a dog when restrained by a leash not exceeding six (6) feet in length. No animals are allowed on any beach under the care and control of the Park Department, or take any other action relating thereto.

(Inserted at the request of 10 registered voters)

**VOTED:** That Section 7 Animal Control of Article 1 of Title IV of the Bylaws be and hereby is amended by adding the following after the word "playground" in the second line thereof: "except in any area designated by the Board of Parks and Recreation Commissioners as a 'Dog Park', 'Dog Run', or 'Dog Exercise Area' or," and deleting the words "under the care and control of the Park Department", so that as amended the section provides as follows: (underlines show new language but not to appear in bylaw as amended)

No person shall cause or permit any animal owned by him or in his custody or under his control, to roam or be at large, in, on or through any park or playground, **except in any area designated by the Board of Park and Recreation Commissioners as a "Dog Park", "Dog Run" or "Dog Exercise Area" or**, except a dog when restrained by a leash not exceeding six (6) feet in length. No animals are allowed on any beach under the care and control of the Park Department.

(4-0)

Mr. Greeley was absent

**COMMENT:** It is planned that some of the property at the Reeds Brook project will be designated for use as dog exercise areas. Amendments to this bylaw and to the leash bylaw (Article 10 below) will be necessary to make legal use of these areas.

## **ARTICLE 10 BYLAW AMENDMENT/LEASH LAW**

To see if the Town will vote to amend the Town Bylaws Title VIII, PUBLIC HEALTH AND SAFETY, Article 2, **CANINE CONTROL**, Section 2. Leashing of Dogs, to allow dogs to be off leash in areas designated as a "Dog Park", "Dog Run" or "Dog Exercise Area", by adding the following wording (underlined):

Leash Required. No person owning or keeping a dog in the Town of Arlington shall permit such dog to be at large in the Town of Arlington elsewhere than on the premises of the owner or keeper, except if it be on the premises of another person with the knowledge and permission of such other person. Such owner or keeper of a dog in the Town of Arlington, which is not on the premises of the owner or upon the premises of another person with the knowledge and permission of such person shall restrain such dog by a chain or leash not exceeding six feet in length. In any prosecution hereunder, the presence of such dog at large upon premises other than the premises of the owner or keeper of such dog shall be prima facie evidence that such knowledge and permission was not had. **This provision shall not apply, however, in any area designated by the Town of Arlington as a "Dog Park", "Dog Run" or "Dog Exercise Area".**

Dog Park: In any area designated by the Town of Arlington as a "Dog Park", "Dog Run" or "Dog Exercise Area", dogs are not required to be restrained by a leash provided the owner or keeper of such dog is present at the park and watching the dog.

Or take any other action related thereto  
(Inserted at the request of 10 registered voters)

**VOTED:** That Section 2. Leashing of Dogs, of Article 2 of Title VIII of the Bylaws be and hereby is amended by adding the following at the end of paragraph A:

"This provision shall not apply, however, in any area designated by the Board of Parks and Recreation Commissioners as a 'Dog Park', 'Dog Run' or 'Dog Exercise Area'. In areas so designated, dogs are not required to be restrained by a leash provided the owner or keeper of such dog is present and attentive to the dog."

So that paragraph A as amended shall provide as follows: (underlines not to appear in bylaw as amended)

A. Leash Required. No person owning or keeping a dog in the Town of Arlington shall permit such dog to be at large in the Town of Arlington elsewhere than on the premises of the owner or keeper, except if it be on the premises of another person with the knowledge and permission of such other person. Such owner or keeper of a dog in the Town of Arlington, which is not on the premises of the owner or upon the premises of another person with the knowledge and permission of such person shall restrain such dog by a chain or leash not exceeding six feet in length. In any prosecution hereunder, the presence of such dog at large upon premises other than the premises of the owner or keeper of such dog shall be prima facie evidence that such knowledge and permission was not had. **This provision shall not apply, however, in any area designated by the Board of Park and Recreation Commissioners as a "Dog Park", "Dog Run" or "Dog Exercise Area". In any area so designated dogs are not required to be restrained by a leash provided the owner or keeper of such dog is present and attentive to the dog.**

(4-0)

Mr. Greeley was absent

**COMMENT:** See comment to Article 9 above.

## **ARTICLE 11 BYLAW AMENDMENT/PARKING METERS**

To see if the Town will vote to amend Title III, Article 1, Section 27 of the bylaws of the Town of Arlington, pertaining to parking meters, or take any action related thereto.

(Inserted at the request of 10 registered voters)

**VOTED:** That Section 27 of Article 1 of Title III be and hereby is deleted. Said provision currently provides as follows:

**A. Power to Install Parking Meters** The Board of Selectmen is empowered to cause to be placed on any public way of the Town, at such places and in such manner as it may determine, devices known as parking meters, and shall have charge of the regulation and operation thereof, shall cause to maintain such meters in good workable conditions, shall establish for parking in parking meter areas a charge of not more than five cents for one hour, proportional parts of said hour to be in amounts determined by said Board, shall collect or cause to be collected monies deposited in said meters and turn such monies over to the Town Treasurer.

**B. Use of Funds** The Board of Selectmen is empowered to authorize the Treasurer to pay out of the revenue derived from said parking meters, from time to time, such amount or amounts on the original purchase price thereof and for such other charges and costs incidental to said meters, as said Board may deem advisable.

**C. Limitations** It is the purpose of this by-law that the fees to be charged and collected by the operation of parking meters will be levied as a police regulation to cover the cost of providing parking spaces and parking areas all lanes, lines and other markings incidental thereto, parking meters and their installation, replacement and maintenance, the cost of regulation and inspection thereof, the cost of operation and control of traffic moving in and out of and parking in such parking spaces and parking meter area and in the vicinity thereof, and for the cost of traffic administration and supervision expenses resulting from the establishment of such parking meter areas, and that it is not the purpose of the installation of such parking meters to recover any further monies for the Town or to engage in the operation of such parking spaces or areas and meters for profit.

**D. Enforcement** The Board of Selectmen shall have the power under this by-law to make and enforce rules and regulations relative to such parking meters, and whoever violates such rules and regulations shall be punishable by a fine of not more than twenty dollars (\$20.00) for each offense.  
(5-0)

**COMMENT:** The Board supports this 10 registered voters article to delete from the bylaw an obsolete provision relating to parking meters. All avenues of potential revenue enhancement are being explored by the Board, the Finance Committee, and other Town officials. This includes the possibility of restoring parking meters in some areas of the Town. The current bylaw provides for a mere five cents per hour for parking. The Board feels that if parking meters are to be instituted it is better to start with a clean slate and bring a wholly revised and new bylaw to the Town Meeting for its consideration at a future date. Finally, some parts of the above bylaw may now be illegal since it provides for expenditure of proceeds without the mechanism of a revolving fund being in place, which is a prerequisite under current municipal finance law.

## **ARTICLE 12 BYLAW AMENDMENT/HISTORIC DISTRICT COMMISSION**

To see if the Town will vote to amend the Bylaws, Title VII, Article 3 in the following respects: In Section 2, by

adding to the end of the third paragraph the following new language: " In the event that, after a diligent effort the Selectmen (or the Commissioners on their behalf) are unable to find or persuade any resident or property owner in a particular district to serve as the district representative, then the Selectmen may appoint any resident of the Town to such position for a term that will end when a resident or property owner of such district evinces his or her willingness to serve and is duly appointed by the Selectmen." In Section 3, A, by adding, after the words "Vice Chairman" the words "or acting chairman," or take any action related thereto.

(Inserted at the request of the Historic District Commissions)

**VOTED:** To amend Title VII, Article 3 of the By-Laws as follows:

**In Section 2**, by adding to the end of the third paragraph the following new language indicated in bold face (bold face type not to appear in the bylaw as amended):

**"Section 2. Composition of Commissions.**

Each Commission consists of seven persons, six of whom serve on all of the Commissions (hereinafter referred to as the "at large" Commissioners) and one of whom is a resident or property owner from each respective district.

For purposes of this section, the term "resident or property owner" shall include the designee of a property owner which is a corporation, partnership, trust, or other such entity. The at large Commissioners shall include a nominee of The Arlington Historical Society, a nominee of the Chapter of the American Institute of Architects covering Arlington, a nominee of the Board of Realtors covering Arlington, and three residents of the Town, or persons having a principal place of business in the Town, who have knowledge or background in the areas of history, architecture, historic preservation, law, urban design, or other relevant disciplines.

In the event that the Selectmen (or the Commissioners on their behalf) request nominations from the three organizations above-referenced, and no such nominations are received by them within thirty (30) days, the Selectmen may appoint any resident of the Town to such a position, provided that such appointees are a member of The Arlington Historical Society, an architect, or a realtor, respectively. **In the event that, after a diligent effort the Selectmen (or the Commissioners on their behalf) are unable to find or persuade any resident or property owner in a particular district to serve as the district representative, then the Selectmen may appoint any resident of the Town to such position for a term that will end when a resident or property owner of such district evinces his or her willingness to serve and is duly appointed by the Selectmen."**

**In Section 3, A**, by adding, after the words "Vice Chairman" the words "or acting chairman."

So that said Section 3, A will read as follows (bold face type not to appear in the bylaw as amended):

**Designation.** In the case of vacancy, absence, or inability or unwillingness to act because of personal interest or other reason on the part of one or more of the Commissioners, the Chairman (or, in his or her absence the Vice-Chairman **or acting chairman**) shall designate one of the alternate members to act as a voting member of the relevant Commission for the duration of such vacancy, absence, or inability or unwillingness to act as the case may be, and may revoke such designation.

(4-0)

Mr. Greeley was absent

**COMMENT:** This article was filed by the Historic District Commissions. The first part arises from a problem in the Broadway Historic District – which contains only seven properties – where, since the resignation of one member several years ago, it has not been possible to find a successor resident or property owner to represent the district. This amendment, if approved, will bring the Commission up to its full strength by allowing the Selectmen to appoint some other citizen of the Town to participate. The second part covers the rare occasion when both the chairman and vice-chairman are absent and allows the acting chairman (usually the senior commissioner present) to designate an alternate, if one is needed. This is important, because under the law (G.L. Ch. 40C) a certificate cannot be granted without the affirmative vote of at least four commissioners who must be members of, or alternates to, the particular district in which the property is

situated.

### **ARTICLE 13 BYLAW AMENDMENT/BOARD OF HEALTH FEES**

To see if the Town will vote to amend the bylaws to provide for further fees or increase existing fees for services provided by the Board of Health, to establish fines for violations of its regulations, or take any action related thereto.

(Inserted at the request of the Board of Health)

**VOTED:** That Subsection A (Board of Health) of Section 5 Department of Human Resources of Article 3 of Title IX Enforcement and Fees be and hereby is amended by adding the following:

- 7. Temporary food permits - - \$25.00 per event. (Exclude nonprofit entities).
  - 8. Inspection of caterers providing services without Arlington based permit – \$25.00 per function.
  - 9. Permit for public and semipublic pools - - \$110.00 (Exclude nonprofit entities).
  - 10. Common victualers plan review - - \$100.00.
  - 11. Food vendors plan review - - \$50.00.
- Any failure by a common victualer or food vendor to correct any violation after a follow-up inspection shall be subject to a daily \$50.00 fine, each day considered to be a separate violation.”

(3-0)

Mrs. Mahon and Mr. Greeley were absent

**COMMENT:** The Board supports these Board of Health recommended fees and fines which are fairly calculated to defray the cost of providing these services by the Board of Health.

### **ARTICLE 14 BYLAW AMENDMENT/ASSISTANT MODERATOR**

To see if the Town will vote to amend the Bylaws, Title 1, Article 1, to add a provision establishing the position of Assistant Moderator, defining the duties of such office and providing for election to such office by the Town Meeting Members or, take any action related thereto.

(Inserted at the request of the Town Moderator)

**VOTED:** to amend Title I, Article 1 of the Bylaws by adding the following:

Section 11. Assistant Moderator

A. Election: Each year at the Annual Town Meeting, the Town Meeting Members shall elect one of their number to serve as Assistant Moderator for a term of one year, or until his or her successor is elected and qualified.

B. Duties: Whenever the Moderator is unavailable, the Assistant Moderator shall preside at Town Meeting. In addition, the Assistant Moderator shall assist the Moderator in the performance of his or her other duties, as the Moderator may direct.

(4-0)

Mr. Greeley was absent

**COMMENT:** This article was filed by the Moderator. The law now in effect (MGL C43A §8) provides that if the Moderator should be absent when a session of Town Meeting is scheduled to begin the Town Clerk must conduct an election for a temporary moderator. This provision, if adopted, would provide a seamless method for a pre-selected person to preside in such an event.

### **ARTICLE 15 APPROPRIATION/ENVIRONMENTAL JOINT POWER AGREEMENT**

To see if the Town will vote to authorize the appropriate Town officials to do all things necessary and appropriate to participate in an Environmental Joint Power Agreement contemplated by Section 20 of Chapter 21A of the General Laws relating to a regional approach to flooding control in the Alewife watershed



and related areas, or to take any action related thereto.  
(Inserted by the Board of Selectmen)

**VOTED:** Pursuant to Section 20 of Chapter 21A of the General Laws, the Town hereby authorizes the Board of Selectmen and the Town Manager to enter into an agreement with the City of Cambridge and the Town of Belmont to consider how these communities might take joint action to address the flooding problem occurring on a periodic basis in the Alewife Brook and Little River Watershed area.

(3-0)

Mrs. Mahon and Mr. Greeley absent

**COMMENT:** The cited section of law permits cities and towns to join in agreements to deal with environmental problems that reach across municipal borders. The purpose of such an agreement would be to identify and implement cost efficient solutions to reduce or eliminate the adverse effects of flooding. Each member committee would have one vote. No funding can be mandated unless specifically voted by the community's appropriating body. The proposed agreement provides as follows:

## **"ENVIRONMENTAL JOINT POWERS AGREEMENT"**

### **A-B-C STORMWATER FLOODING BOARD**

WHEREAS, the undersigned political subdivisions, of the Town of Arlington, the Town of Belmont and the City of Cambridge Massachusetts (hereinafter referred to individually by name or collectively as the "Communities") all of such entities being public agencies as defined in Massachusetts General Laws, Chapter 21A, section 20, hereby desire to enter into this "Environmental Joint Powers Agreement" (the "Agreement") pursuant to said Chapter 21A, section 20;

WHEREAS, all of the Communities are committed to developing a consensus approach to the management, protection, and enhancement of natural resources and the environment and to reducing or eliminating any adverse effects of flooding and other hazards emanating from stormwater flow in the Little River and Alewife Brook areas (the "Watershed") and desire to enter into a joint powers agreement and form a Board to address such issues;

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND UNDERTAKINGS HEREIN, THE COMMUNITIES AGREE AS FOLLOWS:

**1. Authorizing Statutes:** This Agreement is entered into pursuant to M.G.L., c. 21A, §20, as amended, and creates the A-B-C STORMWATER FLOODING BOARD (the "Board").

**2. Purpose:** The purpose of this Agreement is for the Communities to work jointly and cooperatively to identify and implement cost effective solutions to reduce or eliminate any adverse effects of flooding and other hazards in the Watershed pursuant to M.G.L. c. 21A, §20. The Communities agree that Arlington, Belmont and Cambridge should address such hazard reduction jointly because the independent hazard reduction actions of one community can affect one or more of the other communities in the Watershed.

### **3. Creation of the Board and Division of Responsibilities:**

a). The Board shall consist of one (1) member for each of the Communities entering into this Agreement. Each member is to be appointed by the individual Communities to the Agreement in the manner selected by each community. Each Community shall be represented on the Board as follows:

- |                      |   |                          |
|----------------------|---|--------------------------|
| 1. Town of Arlington | - | one member with one vote |
| 2. Town of Belmont   | - | one member with one vote |
| 3. City of Cambridge | - | one member with one vote |

b) Each party to the Agreement shall, in addition to the appointment of its primary representative member, appoint at least one alternate member to the Board, who in the absence or incapacity of the primary member may be designated to act ("Designated Alternate") and shall act in place of the primary member. The Designated Alternate member shall have all the powers, duties and responsibilities of the primary member

when serving as a member of the Board. Designated Alternate members may attend all meetings of the Board but may not participate in deliberations of the Board or vote except as a Designated Alternate member of the Board.

c) Each primary member or Designated Alternate member shall be entitled to one vote.

d) At the first official meeting of the Board the members shall elect a chairman, vice chairman, and treasurer/clerk who each shall serve for one (1) year or until their successors are duly elected and qualified.

e) The Board shall not conduct business unless a quorum consisting of all members or Designated Alternate members of the Board are present.

#### **4. Administration.**

a) The Board shall conduct its meetings, where applicable, under Robert's Rules of Order, as revised.

b) The Board shall meet in compliance with the Open Meetings Law of the Commonwealth of Massachusetts.

c) The Board shall coordinate the activities of the Communities under the Agreement, but only to the extent of and in accordance with the powers otherwise granted by law to one or more of the Communities.

#### **5. Estimated Costs and Methods of Financing.**

a) No Community shall be required to provide any funding to the Board, or pay any assessments for any administrative and contractual costs of this Agreement unless and until such funding or payment of assessments is specifically authorized by the Board and by the lawful appropriating agency of the member Community.

b) The Board, except as otherwise provided by law, is entitled to receive and expend public and private funds to defray the operational, administrative, and contractual costs of this Agreement, including, but not limited to salaries, wages, transportation and administrative overhead.

c) The Board shall adopt budget and accounting procedures that will result in the strict accountability of all receipts and disbursements.

**6. Financial Administration:** The Board shall account for the source and amount of all contributions made to the Board. The Board shall keep accurate records of all transactions of the Board. The Board shall maintain the records and keep them open for inspection and audit at all reasonable times by any member of the Board or for inspection and audit by any person designated by the governing body of any member who may be appointed to conduct such inspection and audit. Books and records of the Board shall be subject to inspection and copying pursuant to applicable federal and state statutes and regulations, including the Public Records Law, M.G.L. c. 4, §7(26), and c. 66, §10.

**7. Distribution of Assets:** In the event of dissolution of the Board for any reason, or termination of this Agreement by all the Communities or otherwise by law or equity, the unencumbered assets of the Board shall be equally distributed to the cities and towns who are Communities under this Agreement, after deduction for all legitimate expenses incurred pursuant to this Agreement. However, in the event that a Community provides funding to the Board in an amount which is not equal to the amount contributed by any other Community, upon dissolution, distributions shall be made to the Communities in proportion to their respective contributions.

**8. Termination:** Any party to this Agreement may cease to be a party to it and withdraw by written notification to the Board, which shall terminate this Agreement and cause the distribution of assets to the Communities pursuant to Paragraph 7, above.

**9. Limitation:** This Agreement shall not be construed to:

a) Amend, repeal or otherwise alter the authority or jurisdiction of, or establish, any public agency.

b) Confer any management authority over funds, land, or natural resources beyond the authority exercised by the participating agencies under appropriate laws and regulations.

c) Authorize legislatively appropriated funds to be expended for the purposes of this Agreement, or to be transferred or have the effect of being transferred from one appropriation to another, except as authorized by law.

d) Amend, repeal or otherwise alter the authority of the Department of Environmental Protection, Commonwealth of Massachusetts, to undertake or order actions pursuant to M.G.L. c. 21E, nor otherwise to require said department to participate in a joint powers agreement if the commissioner thereof determines that such participation would conflict with the purposes of said Chapter 21E.

**10. Liability:** Nothing in this agreement shall be construed to create liability on the part of any public agency for, the act or omission of another public agency.

**11. Severability:** If any part of this Agreement is adjudged illegal or invalid, such illegal or invalid part shall not be a part of this Agreement, shall be severed here from, and the adjudication shall not affect the validity of the of the remainder of the Agreement, in whole or any other part.

**12. Effective Date:** This Agreement shall not become effective until:

a) All of the Communities have executed the Agreement pursuant to official authorization in accordance with their local charter or other governing law.

b) The Secretary of Environmental Affairs has held a public hearing concerning this Agreement and submitted the Secretary's approval in writing to the Clerks of the Senate and House of Representatives and any and all other requirements of law are met.

**13. Amendment:** This Agreement may be amended with the approval of the Secretary of Environmental Affairs and the consent of all of the duly authorized members voting; however, no amendment shall be valid or binding on a member Community which provides for the requirement of a member Community to provide any funding to the agency or pay any assessments for any operational administrative and contractual costs of this Agreement unless such funding or payment of assessments is specifically authorized by the lawful appropriating agency of the member Community.

**14. Governing Law:** This Agreement is governed by and interpreted under the laws of the Commonwealth of Massachusetts.

**15. Duration of the Agreement:** This term of this Agreement shall not exceed five years from its effective date without express approval as required under M. G. L., c. 21A, §20.

**16. Entire Agreement:** It is understood and agreed that the entire Agreement of the member Communities is contained herein and that this Agreement supersedes all other agreements and negotiations between the member Communities as well as any previous agreements previously in effect between the member Communities relating to the subject matter herein.

**IN WITNESS THEREOF,** Each of the undersigned local government's duly authorized representatives have set their signatures as set forth below to become one of the Communities hereunder.

**Town of Arlington**

By \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2003

Print Name \_\_\_\_\_ Title \_\_\_\_\_

By \_\_\_\_\_

Print Name \_\_\_\_\_ Title \_\_\_\_\_

### **Town of Belmont**

By \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2003

Print Name \_\_\_\_\_ Title \_\_\_\_\_

By \_\_\_\_\_

Print Name \_\_\_\_\_ Title \_\_\_\_\_

### **City of Cambridge**

By \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2003

Print Name \_\_\_\_\_ Title \_\_\_\_\_

By \_\_\_\_\_

Print Name \_\_\_\_\_ Title \_\_\_\_\_ "

And further voted the Arlington representative shall be appointed by the Town Manager subject to the approval of the Board of Selectmen.

### **ARTICLE 16 REFUSE CONTRACT**

To see if the Town will vote to approve a contract or contracts for the collection and/or disposal of waste generated by the Town after September 26, 2005, or take any action related thereto.

(Inserted at the request of Acting Town Manager  
and Acting Director of Public Works)

**VOTED:** That the Town Meeting votes to support the recommendation of the Acting Town Manager to proceed with a 5-year contract with Wheelabrator North Andover.  
(5-0)

**COMMENT:** The Town of Arlington has a 20-year contract for solid waste disposal with Wheelabrator North Andover (WNA) through a service agreement with 23 other communities – NESWC. That service agreement is due to expire in September 2005. Under the original service agreement the communities have to negotiate in good faith with WNA to continue to dispose of the solid waste at their facility after the expiration of the agreement. After carefully reviewing the options presented by WNA it is recommended that the Town of Arlington, through its Town Manager, sign an agreement with WNA for a 5- year period – from September 26, 2005 through June 30, 2010. The agreement will not have a guaranteed annual tonnage and will fix the cost per ton at the following:

#### **Cost Estimate/Comparison Solid Waste Disposal**

	<b>Number of Tons</b>	<b>Cost per ton</b>	<b>Annual cost</b>
Current – 2003 budget	24,065	\$145.00	\$3,489,425

FY 2004 projected 24,065 \$160.00 \$3,850,400

FY 2005 24,065 \$160.00 \$3,850,400

FY 2006 20,000\* \$64.00 \$1,280,000

FY 2007 20,000 \$68.00 \$1,360,000

FY 2008 20,000 \$69.50 \$1,390,000

FY 2009 20,000 \$71.50 \$1,430,000

FY 2010 20,000 \$73.00 \$1,460,000

\* Over the past 20 years our estimated tonnage has decreased from 24,065. We are now estimating our tonnage at 20,000.

#### **ARTICLE 17 HOME RULE LEGISLATION/BEER, WINE, AND MALT SALE LICENSES**

To see if the Town will vote to authorize the Selectmen to file a Home Rule Petition which requests that the Great and General Court authorize a ballot question for the Town which requests permission from the voters for the Selectmen to issue licenses for establishments to sell beer, wine, and malt beverages not for consumption on the premises, or take any action related thereto.

(Inserted at the request of 10 registered voters)

**VOTED:** That no action be taken under Article 17 of the Warrant.

(5-0)

**COMMENT:** The Board is of the view that even though there has been a proliferation of beer and wine licenses for eating establishments in the Town, the granting of beer and wine licenses for consumption off the premises is a departure from Town tradition. The Board has a strong set of policy guidelines that are strictly enforced in regard to beer and wine restaurant licenses and has established a record whereby there have been only a handful of excessive drinking incidents arising from consumption at these establishments.

The Board, therefore, believes that it is better to leave well enough alone and does not consider it a major inconvenience for Town residents who wish to purchase these products to patronize nearby stores in adjoining communities.

#### **ARTICLE 18 TOWN-OWNED/OPERATED LIQUOR STORE**

To see if the Town will vote to authorize the Board of Selectmen file a Home Rule Petition to authorize the Town to place on the ballot for determination by the voters of the Town the question as to whether the Town will be authorized to own and operate an establishment for the sale of all alcoholic beverages for consumption off premises, to do all other things necessary and appropriate to determine the manner of ownership and operation, or to take any action related thereto.

(Inserted by the Board of Selectmen)

**VOTED:** That no action be taken under Article 18 of the Warrant.

(5-0)

**COMMENT:** The points raised in the above comment under Article 17 apply to this article as well. In an attempt to explore all possible sources of revenue the Board inserted this article in order to consider more closely its potential advantages. The Board, however, after due consideration, has determined that no action is appropriate. An affirmative vote would require approval by the Legislature, which might prove difficult given that no other communities in the Commonwealth have been authorized to establish a package store. In addition, the liability insurance costs are prohibitive.

#### **ARTICLE 19 REINSPECTION OF VACATED PREMISES**

To see if the Town will vote to amend the bylaws in either Title V or Title VI so as to require the Inspector of Buildings to inspect all apartment dwellings after same have been vacated by the occupant or occupants thereof so as to determine that the maximum number of persons to occupy the unit complies with all local bylaws and the state building code and smoke detector regulations, the responsibility of notifying the Inspector of Buildings to be that of the owner of the premises, to establish a fee for such inspection and to provide for penalties for violations thereof, or to take any action related thereto.

(Inserted by the Board of Selectmen)

**VOTED:** That Title VI Building Regulations of the Bylaws be and hereby is amended by adding a new Article 7 thereto to provide as follows:

## **Article 7 Inspection and Re-Inspection of Rental Units**

### **Section 1. Notification Requirement**

Whenever a dwelling unit, apartment or tenement, other than a hotel, is vacated by the occupant or occupants thereof, the owner of such residential property shall be responsible for scheduling an inspection with the Inspector of Buildings to allow the dwelling unit to be occupied by a new occupant or occupants as required by this bylaw.

### **Section 2 Certification Requirements**

Prior to the occupancy of the dwelling unit by a new occupant or occupants, such unit shall be inspected by the Inspector of Building or his/her inspectors who shall make the following determinations:

- a) whether the number of persons to occupy the rental unit complies with applicable zoning requirements of the Town, based on a written submission by the owner on a form prescribed by the Inspector of Buildings;
- b) whether the rental unit contains proper means of access/egress in accordance with the applicable requirements of the State Building Code;
- c) whether the rental unit is properly equipped with smoke detectors in accordance with the applicable requirements of the State Building Code or other applicable law.

If, following said inspection, the Inspector of Buildings shall determine that the dwelling unit, apartment or tenement complies with the above requirements, he/she shall issue a Certification stating the same.

If, following said inspection, the Inspector of Buildings shall determine that the dwelling unit, apartment or tenement does not comply with the above requirements, he/she shall issue a refusal stating in writing the reasons for such refusal.

### **Section 3. Compliance with the Building Code**

Nothing contained in this bylaw shall be construed as a warranty or guarantee by the Inspector of Buildings, the Building Department or the Town or any of its employees or agents, that any particular property at any particular time fully complies with the provisions of the State Building Code, the Zoning Bylaw of the Town, the Sanitary Code, the Fire Safety Code, or any other applicable codes incorporated into the State Building Code or that any violations found to exist during the inspection of the premises and stated in the written decision are necessarily the only violations existing at the premises at a particular time, or that any correction of such violations is necessarily full and complete, such that no other violations exist in or upon any particular property at any time.

### **Section 4. Exemptions**

The following housing units shall be exempt from the provisions of this Town bylaw:

- a) housing units owned or operated by the Federal, State or Town government or units owned or operated by the Arlington Housing Authority;
- b) Housing of three (3) units or less, one of which is occupied by the owner;

### **Section 5. Right to Inspect**

The Inspector of Buildings, or his/her agents or other employees of the Town reserve the right to

inspect any dwelling unit, apartment or tenement at any time.

#### **Section 6. Fees**

The owner of any dwelling unit, apartment or tenement subject to inspections as provided herein shall pay to the Town a fee of seventy-five (\$75.00) dollars per rented dwelling unit, apartment or tenement for the initial inspection or re-inspection.

#### **Section 7. Public Record**

Documents and information concerning any inspection of the dwelling unit, apartment or tenement, shall be maintained by the Inspector of Building and shall be a public record.

#### **Section 8. Temporary Delay in Inspection**

In the event that the Inspector of Buildings cannot schedule the inspection within 14 days of being advised by the owner of the vacating of a unit, the Inspector may grant a temporary waiver so as to permit the occupation until an inspection can be scheduled.

#### **Section 9. Penalties**

Any owner or lessor of property subject to this Bylaw and used for dwelling purposes who fail to comply with this Bylaw shall pay a fine of one hundred dollars (\$100.00) for each and every day that he or she allows any person to live, occupy or inhabit the premises without having received a certification or temporary waiver from the Inspector of Buildings.

#### **Section 10. Remedies**

This section shall not be construed to impair any common law or statutory cause of action or other legal remedy available to the Town or any private party.

(5-0)

**COMMENT:** Given the tragic fire that occurred in West Warwick, Rhode Island recently, and another that claimed the life of a Tufts student living in Medford, the Board wishes to strengthen the inspection services in order to prevent such a tragedy happening in the Town. Passage of this bylaw will facilitate the inspection of rental units after they have been vacated with a view towards enforcing building and fire code compliance. In the event that the number of Town inspection personnel prove to be inadequate, then the fee can be adjusted upward by a subsequent Town Meeting to permit the addition of more staff.

### **ARTICLE 20**

### **HOME RULE LEGISLATION/ HEALTH INSURANCE**

To see if the Town will vote to authorize and request the Board of Selectmen to file Home Rule legislation which would permit town residents access to the Town employee health insurance plans, or take any action related thereto.

(Inserted at the request of 10 registered voters)

**VOTED:** That the Town does hereby establish a Community-Based Health Insurance Study Committee, which will study and report to the Board of Selectmen, Town Manager, and the next Annual Town Meeting on what advantages might accrue if the Town were to establish a community-based health insurance program for its residents. The committee shall consist of five members, two of which will be appointed by the Board of Selectmen, one by the Town Manager, one by the Town Moderator, and one by the Selectmen's Health Insurance Advisory Committee. The member appointed by the Town Manager shall call the first meeting.

(3-0)

Mrs. Mahon and Mr. Greeley were absent

**COMMENT:** The Selectmen support this 10 registered voters article to see whether a community-based health insurance program would make sense for the Town. It has been suggested by its proponents that economies of scale can be realized along with savings generated by expansion of risk pools that would permit any Town resident to elect health insurance coverage in the Town's employee health care program. Before such a program could be implemented special legislation authorizing same would have to be enacted and collective bargaining with the Town unions would have to occur. The proponents will presumably provide more information at Town Meeting.

**ARTICLE 21 HOME-RULE LEGISLATION/TOWN-BASED PROPERTY INSURANCE**

To see if the Town will vote to authorize and request the Board of Selectmen to file Home Rule legislation which would permit the Town to encourage homeowners to purchase property insurance from a single Town based insurance plan, and would permit the Town to hire a third party administrator to manage and purchase re-insurance for such a Town based plan, or take any action related thereto.

(Inserted at the request of 10 registered voters)

**VOTED:** That no action be taken under Article 20 of the Warrant.

(3-0)

Mrs. Mahon and Mr. Greeley were absent

**COMMENT:** The Board is of the view that study by the Community-Based Insurance Study Committee proceed first on health insurance before expanding its scope into property insurance areas.

**ARTICLE 22 HOME-RULE LEGISLATION/POLICE AGE WAIVER**

To see if the Town will vote to authorize and request the Board of Selectmen to file Home Rule Legislation which would provide essentially as follows:

An Act Exempting George Robert White of Arlington from Maximum Age Requirements for Applying for Civil Service Appointment as a Police Officer in the Town of Arlington.

Section 1:

Notwithstanding any special or general laws to the contrary, including without limitation MGL Chapter 31 Sections 58, 61A and 61B, or the Town of Arlington's failure to adopt the same, George Robert White, an Arlington citizen, is hereby eligible to have his name certified for original appointment to the position of police officer in the Town of Arlington notwithstanding his having reached the age of 32 prior to his taking any Civil Service examination in connection therewith. In all other respects George Robert White will be eligible for appointment to the position of police officer in the Town of Arlington but only insofar as he qualifies and is selected for employment under the statutory procedures provided for in Chapter 31 of the General Laws, any regulations of the Civil Service Commission and any lawful hiring practices of the Town of Arlington.

Section 2:

This act shall take effect upon passage.

Or take any action related thereto.

(Inserted at the request of 10 registered voters)

**VOTED:** That the Town does hereby authorize and request that the Board of Selectmen file Home Rule Legislation to provide essentially as follows:

**An Act Exempting George Robert White of Arlington from the Maximum Age Requirements for Applying for Civil Service Appointment as a Police Officer in the Town of Arlington.**

Section 1:

Notwithstanding any special or general laws to the contrary, including without limitation MGL Chapter 31 Sections 58, 61A and 61B, or the Town of Arlington's failure to adopt the same, George Robert White, an Arlington citizen, is hereby eligible to have his name certified for original appointment to the position of police officer in the Town of Arlington notwithstanding his having reached the age of 32 prior to his taking any Civil Service examination in connection therewith. In all other respects George Robert White will be eligible for appointment to the position of police officer in the Town of Arlington but only insofar as he qualifies and is selected for employment under the statutory procedures provided for in Chapter 31 of the General Laws, any regulations of the Civil Service Commission and the Division of Human Resources of the state and any lawful hiring practices of the Town of Arlington.

Section 2:

This act shall take effect upon passage.



(4-1)

Mrs. Dias voted in the negative

**COMMENT:** A majority of the Board supports this special legislation which would permit a Town resident to be eligible for appointment to the position of police officer in the Town notwithstanding the fact that he is over the age of 32. State law prohibits the appointment as police officers of individuals over such age unless the city or town in question has accepted certain sections of law relating to mandatory fitness and wellness standards. The acceptance of these standards have proven to be problematic in many communities that have accepted them and their acceptance has required the appointment of some individuals in their fifties with a potentially adverse impact on the retirement systems of these communities. If older applicants were turned down for appointment due to lack of qualifications unrelated to their age, the Town might be exposed to the filing of age discrimination law suits. The acceptance of these sections has been defeated at several past Arlington Town Meetings and has been consistently opposed by present and previous fire chiefs and police chiefs. Recent programs instituted in the Town have markedly upgraded the physical fitness of some of our community safety personnel.

The Board however supports the general principle that age should not necessarily be a bar to appointment if the individual is otherwise qualified and passes all the other requisite civil service and fitness test necessary for appointment to this position. Therefore it is important to keep in mind that Mr. White will obtain appointment, if at all, based solely upon his qualifications and merit. The only thing this legislation would do is remove the age impediment to his being considered for the job.

#### **ARTICLE 23 SYMMES HOSPITAL SITE PLAN**

To see if the Town will vote to include in any plan for the Symmes Hospital site the following plan of the Arlington Housing Authority: to acquire up to 1.5 acres of land and to construct thereon elderly housing and/or housing for the disabled not to exceed 75 units with approximately 50 of those units to be affordable, the cost of some to be borne by the Authority, its successors and/or its assigns, or take any action related thereto.

(Inserted at the request of the Arlington Housing Authority)

**VOTED:** That no action be taken under Article 23 of the Warrant.

(5-0)

**COMMENT:** The Board supports a no action vote without prejudice to its insertion in the May 5, 2003 Special Town Meeting, which will deal with the Symmes development. The Board affirms its stated goal of supporting an affordable housing component at the Symmes site.

#### **ARTICLE 24 NEWS RACKS STUDY PLAN**

To see if the Town will vote to authorize the News Racks Study Committee to present a multi-year plan to the Capital Planning Committee designed to enhance and otherwise improve upon the appearance of the newspaper/media vending/display boxes located on the major thoroughfares of the Town, the plan to include a proposal to revise the current fee structure for licensing said boxes in order to amortize the cost of the proposed enhancements; or take any action related thereto:

(Inserted at the request of the News Racks Study Committee)

**VOTED:** That the Town encourages the News Racks Study Committee to present a multi-year plan to the Capital Planning Committee designed to enhance the appearance of the newspaper vending boxes, otherwise known as news racks, located on the major thoroughfares of the Town.

**COMMENT:** The Board supports the News Racks Study Committee in its efforts to improve the appearance of the new racks in Town. The Committee will make a presentation to the Town Meeting on this matter. The principal focus on this article is to seek guidance from the Town Meeting on the issue as to whether the Town should invest in devices that are referred to as condos or corrals, which serve to concentrate news racks in a more organized and aesthetically pleasing fashion.

(5-0)

**ARTICLE 25****TOWN ELECTRICAL LOAD AGGREGATOR**

To see if the Town will vote to do all things necessary and appropriate to become an electrical load aggregator for citizens within its boundaries pursuant to the provisions of Section 134 of Massachusetts General Laws Chapter 164, or take any action related thereto  
(Inserted at the request of the Power Company Feasibility Committee)

**VOTED:** That the Town authorize the Board of Selectmen and other Town officials to do all things necessary and appropriate to initiate the first step of a multi-step process to begin a load aggregator plan, pursuant to Section 134 of Massachusetts General Laws Chapter 164.  
(5-0)

**COMMENT:** This article was submitted by the Town's Electric Power Feasibility Committee which was established by last year's Town Meeting to study the feasibility of the Town establishing its own electric company. The Committee is proposing that, rather than establishing its own power company, the Town, pursuant to Section 134 of Chapter 164 of the General Laws, consider becoming an electrical load aggregator for the citizens of the Town. This process is accomplished by the Town, either by itself or by joining with other communities, entering into agreements for services to facilitate the sale and purchase of electrical energy for its citizens. The aggregation process is begun by a majority vote of Town Meeting. Once this is obtained, the Town develops a plan in consultation with the state Division of Energy Resources for review by its citizenry detailing the process and consequences of aggregation. The plan is then filed with the Department of Telecommunications and Energy, which plan must include an organizational program, its operations, its funding, rate setting information, cost to participants, and other related matters. The Department may not approve any plan that exceeds the price of prevailing charges currently in place in the community unless it can be shown that such Town price is likely to be lower than the "standard offer" in subsequent years. Participation by any retail customer is voluntary. Any customer may opt out at any time. Certain state grants are available in certain circumstances. The purpose of this article is to begin the process to reduce Arlington residents' electrical bills. Several communities in the Commonwealth have pursued this project and have been quite successful. A savings up to as much as 10 percent on power purchases may be feasible. In March of 2005 there will be an end to what is called the Standard Offer. This would mean that rate protection for Town electrical users may change or disappear. Proposals before the State Department of Telecommunications and Energy could assign residents to specific suppliers leaving consumers little choice. A positive vote under this article would give the Town standing to receive the necessary electric load data to permit its developing an aggregation plan and an energy efficiency plan which would be submitted to DTE. The process would take a minimum of two years. The proponents of the article will make a more formal presentation regarding its merits. The Board supports the initiation of this project so as to further consider its feasibility without committing the Town to any future course of action.

The cited section of law provides as follows:

"CHAPTER 164. MANUFACTURE AND SALE OF GAS AND ELECTRICITY  
LOAD AGGREGATION PROGRAMS AND COOPERATIVES

§ 134. Load aggregation programs

Any municipality or any group of municipalities acting together within the commonwealth is hereby authorized to aggregate the electrical load of interested electricity consumers within its boundaries; provided, however, that such municipality or group of municipalities shall not aggregate electrical load if such are served by an existing municipal lighting plant. Such municipality or group of municipalities may group retail electricity customers to solicit bids, broker, and contract for electric power and energy services for such customers. Such municipality or group of municipalities may enter into agreements for services to facilitate the sale and purchase of electric energy and other related services. Such service agreements may be entered into by a single city, town, county, or by a group of cities, towns, or counties.

A municipality or group of municipalities which aggregates its electrical load and operates pursuant to the provisions of this section shall not be considered a utility engaging in the wholesale purchase and resale of electric power. Providing electric power or energy services to aggregated customers within a municipality or group of municipalities shall not be considered a wholesale utility transaction. The provision of aggregated electric power and energy services as authorized by this section shall be regulated by any applicable laws or regulations which govern aggregated electric power and energy services in competitive markets.

A town may initiate a process to aggregate electrical load upon authorization by a majority vote of town meeting or town council. A city may initiate a process to authorize aggregation by a majority vote of the city council, with the approval of the mayor, or the city manager in a Plan D or Plan E city. Two or more municipalities may as a group initiate a process jointly to authorize aggregation by a majority vote of each particular municipality as herein required.

Upon an affirmative vote to initiate said process, a municipality or group of municipalities establishing load aggregation pursuant to this section shall, in consultation with the Division of Energy Resources, pursuant to section 6 of chapter 25A, develop a plan, for review by its citizens, detailing the process and consequences of aggregation. Any municipal load aggregation plan established pursuant to this section shall provide for universal access, reliability, and equitable treatment of all classes of customers and shall meet any requirements established by law or the department concerning aggregated service. Said plan shall be filed with the department, for its final review and approval, and shall include, without limitation, an organizational structure of the program, its operations, and its funding; rate setting and other costs to participants; the methods for entering and terminating agreements with other entities; the rights and responsibilities of program participants; and termination of the program. Prior to its decision, the department shall conduct a public hearing. The department shall not approve any such plan if the price for energy would initially exceed the price of the standard offer, as established pursuant to section 113 of this chapter, for such citizens in the municipality or group of municipalities, unless the applicant can demonstrate that the price for energy under the aggregation plan will be lower than the standard offer in the subsequent years or the applicant can demonstrate that such excess price is due to the purchase of renewable energy as described by the Division of Energy Resources pursuant to chapter 25A.

Participation by any retail customer in a municipal or group aggregation program shall be voluntary. If such aggregated entity is not fully operational on the retail access date, any ratepayer to be automatically enrolled therein shall receive standard offer service unless affirmatively electing not to do so. Within 30 days of the date the aggregated entity is fully operational, such ratepayers shall be transferred to the aggregated entity according to an opt-out provision herein. Following adoption of aggregation through the votes specified above, such program shall allow any retail customer to opt-out and choose any supplier or provider such retail customer wishes. Once enrolled in the aggregated entity, any ratepayer choosing to opt-out within 180 days shall do so without penalty and shall be entitled to receive standard offer service as if he was originally enrolled therein. Nothing in this section shall be construed as authorizing any city or town or any municipal retail load aggregator to restrict the ability of retail electric customers to obtain or receive service from any authorized provider thereof.

It shall be the duty of the aggregated entity to fully inform participating ratepayers in advance of automatic enrollment that they are to be automatically enrolled and that they have the right to opt out of the aggregated entity without penalty. In addition, such disclosure shall prominently state all charges to be made and shall include full disclosure of the standard offer rate, how to access it, and the fact that it is available to them without penalty. The Division of Energy Resources shall furnish, without charge, to any citizen a list of all other supply options available to them in a meaningful format that shall enable comparison of price and product.

(b) A municipality or group of municipalities establishing a load aggregation program pursuant to subsection (a) may, by a vote of its town meeting or legislative body, whichever is applicable, adopt an energy plan which shall define the manner in which the municipality or municipalities may implement demand side management programs and renewable energy programs that are consistent with any state energy conservation goals developed pursuant to chapter 25A or chapter 164. After adoption of the energy plan by such town meeting or other legislative body, the city or town clerk shall submit the plan to the department to certify that it is consistent with any such state energy conservation goals. If the plan is certified by the department, the municipality or group of municipalities may apply to the Massachusetts Technology Park Corporation for monies from the Massachusetts Renewable Energy Trust Fund, established pursuant to subsection (a) of chapter 40J, [FN1] and receive, and if approved, expend moneys from the demand side management system benefit charges or line charges in an amount not to exceed that contributed by retail customers within said municipality or group municipalities. This will not prevent said municipality or municipalities from applying to the Massachusetts Technology Park Corporation for additional funds. If the department determines that the energy plan is not consistent with any such statewide goals, it shall inform the municipality or group of municipalities within six months by written notice the reasons why it is not

consistent with any such state-wide goals. The municipality or group of municipalities may reapply at anytime with an amended version of the energy plan.

The municipality or group of municipalities shall not be prohibited from proposing for certification an energy plan which is more specific, detailed, or comprehensive or which covers additional subject areas than any such state-wide conservation goals. This subsection shall not prohibit a municipality or group of municipalities from considering, adopting, enforcing, or in any other way administering an energy plan which does not comply with any such state-wide conservation goals so long as it does not violate the laws of the commonwealth.

The municipality or group of municipalities shall, within two years of approval of its plan or such further time as the department may allow, provide written notice to the department that its plan is implemented. The department may revoke certification of the energy plan if the municipality or group of municipalities fails to substantially implement the plan or if it is determined by independent audit that the funds were misspent within the time allowed under this subsection."

## **ARTICLE 26 GIBBS JUNIOR HIGH SCHOOL**

To see if the Town will vote to transfer the jurisdiction of the Gibbs Junior High School, currently under the temporary jurisdiction of the Redevelopment Board, under the vote of Article 14 of the 1989 Annual Town Meeting, from the jurisdiction of the School Committee, to some other board or commission, to determine to what use it will be put, including the sale or lease of same, or take any other action relating thereto.  
(Inserted by the Board of Selectmen)

**VOTED:** That the vote under Article 14 of the 1989 Annual Town Meeting, as most recently amended by the vote under Article 37 of the 1993 Annual Town Meeting, be further amended by striking out "for a fifteen-year period ending on June 30, 2004" and substituting therefore "for a ten-year period ending on June 30, 2014," and by further striking out "January 1, 2003" and by substituting therefore "January 1, 2013," so that the vote as amended provides as follows:

"That the Town does hereby vote to transfer jurisdiction of the William Gibbs Junior High School and all land appurtenant thereto to the Arlington Redevelopment Board acting in its capacity as a Redevelopment Authority under the provisions of Chapter 121B of the General Laws effective July 1, 2004 for a ten-year period ending on June 30, 2014. If the School Committee shall determine that the subject property is not necessary for public educational purposes on or before January 1, 2013, it shall so notify the Redevelopment Board. Upon such notification the Redevelopment board shall submit a Warrant Article to the next Special or Annual Town Meeting requesting continued jurisdiction of the property.

This temporary transfer is expressly contingent upon the Redevelopment Board not voting to sell or release jurisdiction of the property or parts thereof at any time during the temporary transfer and if they do so, this transfer shall become null and void and that the property shall revert automatically to the jurisdiction of the School Committee.

The transfer of the property and its reuse under the direction of the Arlington Redevelopment Board shall be contingent on the following:

The Building and site shall be leased for purposes that will insofar as practical preserve the integrity of the building and site for public education and recreation purposes including but not limited to lease provisions insuring public access to all play areas on the site.

The proceeds from the lease of the building shall be managed by the Arlington Redevelopment Board to insure that funds are maintained in an account to provide for the proper maintenance, operation, management, and upkeep of the building. Any funds available at the end of a fiscal year shall be transferred to the Town and placed in the general fund."

(3-0)

Mrs. Mahon and Mr. Greeley were absent

**COMMENT:** The School Committee 15 years ago determined that the Gibbs Junior High School was not at

that time needed for educational purposes and voted to release jurisdiction on a temporary basis to the Redevelopment Board prior to the 1989 Annual Town Meeting. That vote was extended at the 1993 Annual Town Meeting. The School Committee recently voted to continue its temporary release of jurisdiction for an additional 10-year period. Keeping this property under the control of the Redevelopment Board will permit the Town to lease space at the Gibbs for very important Town-wide social, educational and recreational programs. It will also make it feasible for current tenants to make capital improvements on the property.

## **ARTICLE 27 SALE OF TOWN OWNED REAL ESTATE**

To see if the Town will vote to authorize the Selectmen to sell any Town owned real estate property, to determine to what purpose the proceeds of such sale shall be put, or take any action related thereto.

(Inserted at the request of the Finance Committee)

**VOTED:** That no action be taken under Article 26 of the Warrant.

(3-0)

Mrs. Mahon and Mr. Greeley were absent

**COMMENT:** The Board is of the view that it would not be prudent to sell any Town owned real estate even given the dire fiscal condition of the Town. The Board believes that it is imprudent to sell capital assets to fund operating expenses, especially given the one time financial windfall that would occur. Sale of the property might be to a nonprofit corporation that would not return the property to the Town's tax rolls. Many of the properties have long-term leases that might have to be bought out prior to a sale. The Board also notes that no proponents of the article were present at its hearing to offer a contrary rationale. The Director of Planning has reviewed each parcel belonging to the Town and will be available to respond to questions.

## **ARTICLE 28 AMEND TOWN MANAGER ACT/TOWN MANAGER QUALIFICATIONS**

To see if the Town will vote to petition the Legislature to amend the Town Manager Act by removing the requirement that the Town Manager be a resident of the Town as provided in Section 11 of the Act, or otherwise alter the qualifications and requirements necessary to be the Town Manager or take any action related thereto.

(Inserted at the request of 10 registered voters)

**VOTED:** That the Board of Selectmen be and hereby is authorized and requested to file Home Rule legislation to provide substantially as follows:

### **"An Act Making Certain Changes in the Qualifications Necessary for Appointment of the Office of Town in the Town of Arlington."**

Section 1. Chapter 503 of the Acts of 1952, An Act Establishing a Town Manager Form of Government for the Town of Arlington be and hereby is further amended by striking out in Section 11 Appointment of Town Manager the words "as a city or town manager" as they appear after the word "years" in the first sentence thereof and to substitute therefore the following: "of significant municipal management or administrative experience."

Section 2. The act will take effect upon passage.

(5-0)

**COMMENT:** Without intending to cast aspersions on the quality of applicants, and especially the finalists, for the position of Town Manager upon the retirement of Donald R. Marquis, some Board members and others were somewhat disappointed in the number of qualified candidates applying for the position. The potential pool was thought to be reduced by several factors including the necessity of the Town Manager Act's requirement that applicants must have had three year's prior experience as a city or town manager. The Board is convinced that, when it begins its search for a new town manager in the late spring and summer of this year, the Town's interests would be better served by the Board being able to consider candidates who have served as assistant Town Managers, administrative assistants and budget officers from large and small communities across the country and within the state.

The Board also wrestled with the Town residency requirement which is also a prerequisite to appointment.

The affordability of Arlington homes may indeed prove to be an impediment to some applicants. The Board is considering some options that might address this concern. In any event the Board believes that it is important for the manager to live in Town in order to experience all that all other Town residents experience so as to be better able to improve the quality of life. A residency requirement would also make it more likely that the manager would be present to respond to crises occurring in the Town in a timely fashion.

## **ARTICLE 29 ESTABLISH TREE COMMITTEE**

To see if the Town will vote to amend the bylaws so as to establish a Tree Committee, determine the scope of its authority and manner of appointment, said amendment to also provide for a procedure governing the removal of trees in construction projects, or take any action related thereto.

(Inserted at the request of 10 registered voters)

**VOTED:** That the Town does hereby establish a Tree Committee which shall include five members to be appointed by the Town Manager subject to the approval of the Board of Selectmen one of whom will be the Tree Warden of the Town. The charge of the committee is to study and make recommendations to the Board of Selectmen, Town Manager and Town Meeting as to whether it would be desirable to amend the bylaws to provide for a committee whose purpose would be to educate and foster the planning, care, and protection of trees on private property within the Town.

(3-0)

Mrs. Mahon and Mr. Greeley were absent

**COMMENT:** The Board supports this 10 registered voters article given the self-evident advantages of having a large number of healthy trees proliferate throughout the community. The Committee's first task will be to research existing bylaws in other communities. The Board reserves its position as to whether any subsequent bylaw ought to regulate trees on privately owned property. The proponents will provide more information on this subject.

## **ARTICLE 30 TRASH COLLECTION PLAN I**

To see if the Town will vote to make all necessary changes to its bylaws so as to establish a trash collection plan to be established and administered by the Department of Public Works (DPW), said plan to provide for Town trash collection only of household waste placed in approved bags; each household would be provided with enough bags to allow for one bag of waste to be picked up per week; additional bags would be sold for a fee under an arrangement devised by the DPW, or take any other action related thereto.

(Inserted at the request of 10 registered voters)

**VOTED:** That no action be taken under Article 30 of the Warrant.

(4-1)

Mrs. Dias voted in the negative.

**COMMENT:** This article and Article 31 should be considered together since they are nearly identical. Article 30 was submitted at the request of 10 registered voters while Article 31 was inserted by the Town Recycling Committee. The Board sees much to recommend these articles from an environmental standpoint.

However, it cannot support these articles at this time for several reasons. The majority of the Board believe that trash collection is a core governmental function which people expect to be supported by the tax rate. It is perhaps the most visible Town service provided to our residents. The Board believes that the Arlington taxpayers have been very supportive of raising their taxes to support various Town projects especially the school renovation projects. The Board has voted to support a general override, which will again ask the taxpayers to pay more to support Town and school services. The contract that the Town has through the NESWC consortium will expire in 2005. Until that time the Town has a put or pay provision which requires the Town to pay for guaranteed annual tonnage whether or not its tonnage is reduced as the proponents of this article suggest. Continually asking the taxpayers for more money to support Town services, as this article would, may serve to undermine future override or debt exclusion requests.

Finally, the Board is concerned that in a densely populated community like Arlington the inauguration of this Pay As You Throw program might result in the illegal dumping of rubbish, thus raising health concerns. A no action vote is thus urged.

**ARTICLE 31 TRASH COLLECTION PLAN II**

To see if the Town will vote to make all necessary changes to its bylaws so as to establish a trash collection plan to be established and administered by the Department of Public Works (DPW), said plan to provide for Town trash collection only of household waste placed in approved bags; each household would be provided with enough bags to allow for one bag of waste to be picked up per week; additional bags would be sold for a fee equal to that charged for commercial waste pickup as arranged by the DPW, or take any other action related thereto.

(Inserted at the request of the Recycling Committee)

**VOTED:** That no action be taken under Article 31 of the Warrant.

(4-1)

Mrs. Dias voted in the negative

**COMMENT:** Please see comment to Article 30 above.

**ARTICLE 32 LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN**

To see if the Town will vote to take all appropriate action, including amendment of Town Bylaws if necessary, to reduce operating costs and increase the environmental efficiency of Town buildings and to require new Town buildings to achieve at least Leadership in Energy and Environmental Design (LEED) silver level certification in the building scoring system promulgated by the US Green Building Council, or similar level in a comparable scoring system, or take any other action relating thereto.

(Inserted at the request of the Vision 2020 Environment Task Group and the Vision 2020 Standing Committee)

**VOTED:** That the Board will report to Town Meeting on Article 31.

(3-0)

Mrs. Mahon and Mr. Greeley were absent

**COMMENT:** Before taking a position on this article the Board wishes to consult with the Permanent Town Building Committee and others on the advisability of adopting a bylaw that would require the utilization of certain kinds of construction techniques for new Town buildings, calculated to promote environmentally and energy efficient building practices. Although the Board supports the environmentally friendly premise of this 10 registered voters article, it wishes to first determine whether the utilization would add to the cost of future building projects.

**ARTICLE 33 ACCEPTANCE OF LEGISLATION/COMMUNITY PRESERVATION ACT**

To see if the Town will accept Sections 3 to 7, inclusive, of Chapter 44B of the General Laws, otherwise known as the Massachusetts Community Preservation Act, by approving a surcharge on real property for the purposes permitted by said act including the acquisition, creation, and preservation of open space; the acquisition and preservation of historic resources; the acquisition, creation and preservation of land for recreational use; the creation, acquisition, preservation and support of community housing; and the rehabilitation and restoration of such open space, historic resources, land for recreational use and community housing that is required or created as provided under said Act; to determine the amount of such surcharge on real property as a percentage of the annual real estate tax levy of up to 3% against real property; to determine whether the Town will accept the low and moderate income exemption and the first \$100,000 exemption permitted under Section 3I of said Act; to present the acceptance of the act to the voters as a referendum question at the next election; or to take any other action relative thereto

(Inserted at the request of the Community Preservation Act Study Committee).

**VOTED:** That no action be taken under Article 33 of the Warrant.

(4-1)

Mrs. Dias voted in the negative

**COMMENT:** The Board sees much in the Community Preservation Act to recommend it given its laudable goals of enhancing affordable housing, historic preservation, and open space considerations. On balance, however, it is of the firm view that it would be a mistake to ask Town taxpayers to increase their tax bills further given the expectation that the taxpayers will be asked to fund vital Town and school services in a general override this year and perhaps in future years.

#### **ARTICLE 34 COMMUNITY PRESERVATION COMMITTEE**

To see if the Town will amend the bylaws to establish a Community Preservation Committee as set forth below or take any action relating thereto.

There is hereby established a Community Preservation Committee to be appointed by the Moderator according to Title I, Article 1, Section 9 of the Bylaws. The Committee shall consist of one member of the Conservation Commission nominated by its chair, one member of the Historical Commission nominated by its chair, one member of the Redevelopment Board nominated by its chair, one member of the Parks and Recreation Commission nominated by its chair, one member of the Housing Authority nominated by its Board, one member of the Capital Planning Committee nominated by its chair, one member of the Finance Committee nominated by its chair, and two registered voters of the Town. Members of the Community Preservation Committee shall serve for a period of three years beginning 1 July, 2003 and are eligible for reappointment. A vacancy shall be filled in the same manner as the original appointment. The Community Preservation Committee shall choose its own officers.

The Community Preservation Committee shall study the needs, possibilities and resources of the Town regarding community preservation. The Committee shall consult with existing municipal boards, including, but not limited to, the Conservation Commission, the Historical Commission, the Redevelopment Board, the Parks and Recreation Commission, the Open Space Committee, the Affordable Housing Task Force, the Capital Planning Committee, and the Finance Committee. As part of its study, the Committee shall hold at least one annual public informational hearing on the needs, possibilities, and resources of the Town concerning community preservation, notice of which shall be posted publicly and published for each of two weeks preceding the meeting. After gathering this information, the Committee shall prepare a five-year plan for expending the funds raised under the provisions of and for the purposes authorized by the Community Preservation Act (Chapter 44B of the General Laws).

After review of the plan by the Board of Selectmen, the Finance Committee, and the Capital Planning Committee, the Community Preservation Committee shall recommend to the Annual or Special Town Meeting for approval the first year of the plan.

No action shall be recommended by the Community Preservation Committee that will prevent a reconsideration and possible revocation of acceptance of the Community Preservation Act five years after the act is initially accepted.

(Inserted at the request of the Community Preservation Act Study Committee)

**VOTED:** That no action be taken under Article 34 of the Warrant.

(4-1)

Mrs. Dias voted in the negative

**COMMENT:** Please see comment under Article 33 above.

#### **ARTICLE 35 ENDORSEMENT OF CDBG APPLICATION**

To see if the Town will vote to endorse the application for Federal Fiscal Year 2004 prepared by the Town Manager and the Board of Selectmen under the Housing and Community Development Act of 1974 (PL 93-383) as amended, or take any action related thereto.

(Inserted by the Board of Selectmen and at the request of the Acting Town Manager)

**VOTED:** That the Town hereby endorses the application for federal fiscal year 2004 prepared by the Town Manager and the Board of Selectmen under the Housing and Community Development Act of 1974 (Public



Law 93-383) as amended.

(3-0)

Mrs. Mahon and Mr. Greeley were absent

**COMMENT:** The Board will make a presentation to the Town Meeting on the particulars of its application for next year's CDBG program and seek the Town's endorsement of same.

#### **ARTICLE 36 AUTHORITY TO FILE FOR GRANTS**

To see if the Town will vote to give the Town Manager, the Board of Selectmen, the Superintendent of Schools, and the School Committee, the general authority to file applications and to accept grants from the Federal Government, the Commonwealth of Massachusetts and/or any grant-making organization/body during Fiscal Year 2004, or take any action related thereto.

(Inserted at the request of the Acting Town Manager and the Superintendent of Schools)

**VOTED:** That the Board of Selectmen, Town Manager, the School Superintendent and the School Committee are granted the general authority to file applications and to accept grants from the federal government, the Commonwealth of Massachusetts and/or any grant making organization during fiscal year 2004.

(3-0)

Mrs. Mahon and Mr. Greeley were absent

**COMMENT:** This is the usual article giving these boards and officials authority to apply for and accept grants.

#### **ARTICLE 37 EARLY RETIREMENT**

To see if the Town will vote to accept any permissive legislation related to retirement changes and/or Early Retirement, or take any action related thereto.

(Inserted at the request of the School Committee and the Superintendent of Schools)

**VOTED:** That no action be taken under Article 37 of the Warrant.

(3-0)

Mrs. Mahon and Mr. Greeley were absent

**COMMENT:** This article and articles 38 and 39 are the routine articles yearly filed by the School Committee and Superintendent of Schools to take advantage of any permissive legislation in the area of early retirement, educational reform, and special education. Since at the time of the printing of this report no such legislation has been filed, a no action vote is appropriate. If any such legislation is passed, the Board may reconsider its position.

#### **ARTICLE 38**

#### **EDUCATION REFORM**

To see if the Town will vote to accept any permissive legislation relative to education reform and/or to apply and accept any educational funds as appropriated by the legislature, or take any action related thereto.

(Inserted at the request of the School Committee and the Superintendent of Schools)

**VOTED:** That no action be taken under Article 38 of the Warrant.

(3-0)

Mrs. Mahon and Mr. Greeley were absent

**COMMENT:** See Comment under Article 37.

**ARTICLE 39 SPECIAL EDUCATION**

To see if the Town will vote to accept any permissive legislation concerning special needs students, or take any action related thereto.

(Inserted at the request of the School Committee  
and the Superintendent of Schools)

**VOTED:** That no action be taken under Article 39 of the Warrant.

(3-0)

Mrs. Mahon and Mr. Greeley were absent

**COMMENT:** See Comment under Article 37.

**ARTICLE 40 REVOLVING FUNDS**

To see if the Town will vote the following:

A. Private Way Repair - to reauthorize the revolving fund established under Article 46 of the 1992 Annual Town Meeting relating to defraying the cost of private way repairs, to hear or receive a report concerning the receipts and expenditures of same;

B. Public Way Repair - to reauthorize the revolving fund established under Article 45 of the 1992 Annual Town Meeting relating to the maintenance of public ways; to hear or receive a report concerning the receipts and expenditures of same;

C. Fox Library - to reauthorize the revolving fund established under Article 49 of the 1996 Annual Town Meeting relating to the Fox Library and Community Center; to hear or receive a report concerning the receipts and expenditures of same;

D. Robbins House - to reauthorize the revolving fund established under Article 77 of the 1997 Annual Town Meeting relating to the Whittemore-Robbins House; to hear or receive a report concerning the receipts and expenditures of same;

E. Conservation Commission - to reauthorize the revolving fund established under Article 44 of the 1996 Annual Town Meeting relating to consultant fees charged by the Conservation Commission; to hear or receive a report concerning the receipts and expenditures of same;

F. Tuition Payments – to reauthorize the revolving fund established under Article 34 of the 1999 Annual Town Meeting relating to grants or reimbursements paid by another governmental entity including tuition payments of U.S. citizen students; to hear or receive a report concerning the receipts and expenditures of same;

G. All Day Kindergarten - to reauthorize the revolving fund established under Article 31 of the 2000 Annual Town Meeting for all day kindergarten under the auspices of the School Department, to hear or receive a report concerning the receipts and expenditures of same;

H. Uncle Sam – to reauthorize the revolving fund established under Article 31 of the 2000 Annual Town Meeting for the Uncle Sam program that promotes Arlington as the “Birthplace of Uncle Sam” under the auspices of the Uncle Sam Committee; to hear or receive a report concerning the receipts and expenditures of same;

I. Hardy After School Program – to reauthorize the revolving fund established under Article 51 of the 2001 Annual Town Meeting for the after school program at the Hardy School, to hear or receive a report concerning the receipts and expenditures of same;

J. Life Support Services – to reauthorize the revolving fund established under Article 6 of the May, 2001 Special Town Meeting for basic life support and advanced life support services which provides for billing and payment to other entities in the Town to take account of new Medicare regulations; to hear or receive a report concerning the receipts and expenditures of same;

To appropriate a sum of money for same, determine how the money shall be raised and expended; or take any action related thereto.

(Inserted by the Board of Selectmen)

**VOTED:** That the Town does hereby reauthorize the following revolving funds and receives the reports concerning the receipts and expenditures of same.

A. Private Way Repair – to reauthorize the revolving fund as established under Article 46 of the 1992 Annual Town Meeting and expenditures not to exceed \$50,000.

Beginning Balance: \$2,720.56  
Receipts: 0  
Expenditures: 0  
Balance: \$2,720.56

B. Public Way Repair – to reauthorize the revolving fund established under Article 45 of the 1992 Annual Town Meeting and expenditures not to exceed \$50,000.

Beginning Balance: \$1,091.75  
Receipts: 0  
Expenditure 0  
Balance: \$1,091.75

C. Fox Library – to reauthorize the revolving fund established under Article 49 of the 1996 Annual Town Meeting relating to receipts received at the Fox Library/Community Center and expenditures not to exceed \$20,000.

Beginning Balance: \$4,062.00  
Revenues \$3,416.00  
Expenditures: \$5,389.87  
Balance: \$2,088.13

D. Robbins House – to reauthorize the revolving fund authorized under Article 77 of the 1997 Annual Town Meeting and expenditures not to exceed \$75,000.

Beginning Balance: \$8,803.89  
Revenues: \$30,415.00  
Expenditures: \$36,850.59  
Balance: \$2,368.30

E. Conservation Commission – to reauthorize the revolving fund established under Article 44 of the 1996 Annual Town Meeting relating to consultant fees charged by the Conservation Commission and expenditures not to exceed \$50,000.

Beginning Balance: \$521.04  
Revenues: \$3,172.15  
Expenditures \$0  
Balance: \$3,693.19

F. Tuition Payments – to reauthorize the revolving fund established under Article 34 of the 1999 Annual Town Meeting relating to the receipts including grants and reimbursements paid any governmental entity for tuition payments for non-U.S. citizen students with expenditures not to exceed \$20,000.

Beginning Balance: \$39,230.85  
Receipts: \$6,200.00  
Expenditures: \$12,200.00  
Ending Balance: \$33,230.85

G. All Day Kindergarten – to reauthorize the revolving fund established under Article 31 of the 2000 Annual Town Meeting for all day kindergarten under the auspices of the School Department.

Beginning Balance: \$9,600.00  
Receipts: \$64,011.41

Expenditures: \$75,663.55  
Ending Balance: \$(2,052.14)

H. Uncle Sam – to reauthorize the revolving fund established under Article 31 of the 2000 Annual Town Meeting for the Uncle Sam program that promotes Arlington as the “Birthplace of Uncle Sam” under the auspices of the Uncle Sam Committee.

Beginning Balance: \$1,697.80  
Receipts: 0  
Expenditures: \$550.00  
Ending Balance: \$1,147.80

I. Hardy School Program – to reauthorize the revolving fund established under Article 51 of the 2001 Annual Town Meeting for the after school program at the Hardy School with expenditures not to exceed \$170,000.

Beginning Balance: \$39,113.86  
Receipts: \$161,718.95  
Expenditures: \$120,408.49  
Ending Balance: \$80,424.32

J. Life Support Services – to reauthorize the revolving fund established under Article 37 of the 2001 Annual Town Meeting for emergency medical services with expenditures not to exceed \$400,000.

Beginning Balance \$18,805.00  
Receipts: \$174,340.05  
Expenditures: \$107,445.98  
Ending Balance: \$85,699.07

(3-0)

Mrs. Mahon and Mr. Greeley were absent

**COMMENT:** This is the usual article that reauthorizes the Town’s revolving funds. The departments in charge of each also provide a report on receipts and expenditures for each.

#### **ARTICLE 41 ACCEPTANCE OF LEGISLATION ORDINARYDISABILITY RETIREMENT**

To see if the Town will vote to accept the appropriate provisions of Massachusetts General Laws Chapter 32, Section 6 allowing non-veteran employees of the Town to receive an ordinary disability retirement upon the completion of ten years of creditable service; or take any action related thereto.

(Inserted at the request of the Contributory Retirement Board)

**VOTED:** That the Town does hereby accept that provision in Section 6 of Chapter 32 of the General Laws relating to the minimum service term (10 years) required for a non-veteran to qualify for ordinary disability.

(3-0)

Mrs. Mahon and Mr. Greeley were absent

**COMMENT:** The Board supports this article submitted by the Retirement Board. Under current law veterans need to be a member in service for a minimum of 10 years in order to qualify for ordinary disability, i.e., nonservice related disability. If a veteran is disabled and cannot continue to function as a Town employee in his or her job, he or she is entitled to 50 percent of his or her present salary. This article would reduce from 15 to 10 the number of years that a non-veteran would be required to be a member in the system to qualify for ordinary disability. The Retirement Board points out that the Town is one of only 8 out of 106 retirement systems in the state that has not adopted this section. The retirement by a non-veteran qualifying under this provision would be 15 percent of his or her last three years’ salary off set by any outside employment income. This would provide considerably less than the 50 percent provision for veterans. The Retirement Board reports that the additional actuarial liability to the system is approximately \$10,000. All teachers, including Arlington teachers, currently enjoy this benefit as members of the Teachers Retirement System. The Board supports this article as a matter of fairness and equity.

**ARTICLE 42****ACCEPTANCE OF LEGISLATION/ VETERANS BUY BACK**

To see if the Town will vote to accept the provisions of Chapter 71 of the Acts of 1996 allowing certain public employees of the Town to purchase up to four years for active service in the armed forces to be added to current creditable service time; or take any action related thereto.

(Inserted at the request of the Contributory Retirement Board)

**VOTED:** That the Town does hereby accept the provisions of Chapter 71 of the Acts of 1996 allowing certain employees of the Town to purchase up to four years for active service in the armed services to be added to current credible service time.

(3-0)

Mrs. Mahon and Mr. Greeley were absent

**COMMENT:** This is the second time that this option has been offered to municipal employees by the legislature, the first being in 1996, the first time that early retirement was offered. The legislature again has made this available for possible acceptance as an add on to last year's early retirement incentive option.

The buyback rate is 10 percent of the first year's salary of the employee when entering service in the system multiplied by the number of years of active military service sought to be bought back. For example, someone who started as a Town employee at an annual salary of \$20,000 and who was in the active military for four years and wanted to buyback all of this service, would have to pay \$8,000 to do so.

Payments can be spread over a period of time. Several town employees took advantage of this option when the legislature last made it available. The Retirement Board will supply more information on this matter.

**ARTICLE 62 WETLANDS BYLAW WAIVER PROVISIONS**

To see if the Town will vote to amend Article 8 – Wetlands Protection of Title V of the Bylaws so as to provide the Conservation Commission with the authority to grant a variance in those situations where strict adherence to provisions of the bylaw would result in an extreme hardship, or take any action related thereto.

(Inserted at the request of the Superintendent of Schools, the Director of Planning and Community Development, and Town Counsel)

**VOTED:** That no action be taken under Article 62 of the Warrant.

(5-0)

**COMMENT:** This matter will be taken up at the May 5, 2003 Special Town Meeting.

**ARTICLE 74 BORROWING CAP/ELEMENTARY SCHOOL PROJECTS**

To see if the Town will vote to instruct the Treasurer and the Board of Selectmen to adhere to the representations made to the voters of the Town during the April 1, 2000 debt exclusion campaign regarding the thirty-seven percent limitation imposed upon the Town's share of the debt service costs specifically related to the issuance of Proposition 2 1/2 exempt notes and/or bonds for the purpose of financing the remodeling, furnishing, equipping or otherwise constructing and/or reconstructing the Dallin, Thompson and Stratton Elementary Schools; and any borrowing for these projects which will, at any time, exceed the said thirty-seven percent limitation shall be issued either as non-exempt debt within the Town's capital planning process, or postponed until such time as state reimbursements allow the continuance of these school rebuilding projects; that the

**VOTED:** That no action be taken under Article 74 of the Warrant.

(4-0)

Mrs. Mahon was absent

**COMMENT:** This article was submitted at the request of the Town Treasurer. Mr. Bilafer is concerned that the delay of State reimbursements for certain of the school projects will leave open the possibility that all of the interest and principal for these projects will be placed upon the tax rate without the benefit of the State reimbursements reducing same. This would arguably be contrary to representations made to the electorate that only 37 percent of the cost would go on the tax rate; at the time of the override. It was then assumed that

the State's share of 63 percent would be timely made. It is clear now that such will not be the case since reimbursement is now projected to be delayed for several years due to the state's financial crisis. The Department of Revenue has provided a written opinion to the Town that representations to the electorate, other than the one indicating the total cost of the project, are legally irrelevant. The Board believes that the appropriate forum for discussion of this important matter is when the Town Meeting takes up those articles requesting appropriations for the Dallin, Thompson and Stratton Schools. The Dallin School is Article 71 of the Warrant, and there will be a Special Town Meeting at the end of May to deal with the Thompson and Stratton projects. Town Counsel has given his opinion that there can be no legally effective vote under this Article 74. Further discussion should be deferred until each separate school article is brought before Town Meeting.

#### **ARTICLE 75 BYLAW AMENDMENT/ADJUSTMENTS TO TOWN FEES**

To see if the Town will vote to amend Title IX of the bylaws entitled Enforcement and Fees by adjusting any or all Town fees contained therein, or take any action related thereto.

(Inserted at the request of the Finance Committee)

**VOTED:** That no action be taken under Article 75 of the Warrant.  
(5-0)

**COMMENT:** The last adjustment to Town fees was accomplished in 2001 when they were increased either to the statutory maximum or were increased to offset the cost of the Town providing the service in question which is the maximum that the law permits. An article proposing a new approach to Town fees may be presented at a future Town Meeting.

#### **ARTICLE 76 LOCAL OPTION TAXES**

To see if the Town will vote to accept any local option taxes which are made available to cities and towns through enactments of the legislature, or take any action related thereto. (Inserted at the request of the Finance Committee)

**VOTED:** That the Board of Selectmen will report to Town Meeting on a proposed vote under Article 76 of the Warrant.  
(5-0)

**COMMENT:** As of the printing of this report the legislature had not yet enacted any local option taxes. If it does so prior Town Meeting taking up this matter then the Board will consider any recommendations to Town Meeting at that time.

#### **ARTICLE 81 RESOLUTION/THE USA PATRIOT ACT AND THE PROTECTION OF CIVIL RIGHTS AND CIVIL LIBERTIES**

To see if the Town will adopt the following resolution:

**Whereas**, the Town of Arlington has a long and distinguished history of fighting for the civil liberties of its residents; and

**Whereas**, the Town of Arlington comprises a diverse population, including working people, people of color, students, and non-citizens, whose contributions to the community are greatly valued and provide vitality and character to the Town; and

**Whereas**, the Town of Arlington is committed to upholding the human rights of all persons in Arlington and all the rights and privileges secured by our Constitution and the laws of the United States, the Commonwealth of Massachusetts, and the Town of Arlington, which guarantees all citizens the following rights:

Freedom of speech, assembly, and privacy;

The rights to counsel and due process in judicial proceedings; and

Protection from unreasonable searches and seizures; and

**Whereas**, we believe these civil liberties are precious and are now threatened by:

**The USA PATRIOT Act**, which

All but eliminates judicial supervision of telephone and Internet surveillance;

Greatly expands the government's ability to conduct secret searches;  
 Gives the Attorney General and the Secretary of State the power to designate domestic groups as "terrorist organizations"; and  
 Grants the FBI broad access to sensitive medical, mental health, financial, and educational records about individuals without having to show evidence of a crime and without a court order; and

**Federal Executive Orders, which**

Establish secret military tribunals for terrorism suspects;  
 Permit wiretapping of conversations between federal prisoners and their lawyers;  
 Lift Justice Department regulations against illegal COINTELPRO-type operations by the FBI (covert activities that in the past targeted domestic groups and individuals); and  
 Limit the disclosure of public documents and records under the Freedom of Information Act;

**Therefore be it resolved that:**

The Town of Arlington and its elected and appointed officials and employees will continue to preserve residents' freedom of speech, religion, assembly, and privacy; the right to counsel and due process in judicial proceedings; and protection from unreasonable searches and seizures; and  
 The Town of Arlington will reject racial profiling of any group within our community; and  
 The Town of Arlington will urge the United States Federal Government and its various branches, representatives, and employees to act in a fair, open, and consistent manner by ensuring that all individuals are afforded their appropriate rights to due process; and  
 The Town of Arlington will urge US Congressional representatives and Senators to monitor the implementation of the USA PATRIOT Act and actively work for repeal of the parts of that Act and those Executive Orders that violate fundamental rights and liberties; and  
 The Town of Arlington will send copies of this resolution to our U.S. Congressional and Senate representatives, the U.S. Attorney General, and the President of the United States., or take any action related thereto.

(Inserted at the request of 10 registered voters (on behalf of  
 Arlington United for Justice and Peace))

**VOTED:** That the Board of Selectmen will report to Town Meeting under Article 81 of the Warrant.

(3-0)

Mrs. Mahon and Mr. Greeley were absent

**COMMENT:** At the time this matter came before the Board not all members of the Board were present. It was felt by the remaining members of the Board that a thorough discussion involving all issues of this article be had. The Board will subsequently take a position on this article and make a report to Town Meeting.

**ARTICLE 82 RESOLUTION: CHILD DISCIPLINE/POLICY**

To see if the Town will adopt a policy to encourage parents and caregivers of children to: refrain from the use of corporal punishment; use alternative nonviolent methods of child discipline and management, with an ultimate goal of mutual respect between parent and child; and take advantage of the Arlington Youth Consultation Center, which is available to offer parents support, information, and direction regarding effective disciplinary methods. This policy statement is in no way intended to undermine parental authority or familial autonomy. Its goal is to promote and advocate mutually respectful relationships between children and their parents and encourage thoughtful determination of discipline methods, or take any action related thereto.

(Inserted at the request of 10 registered voters)

**VOTED:** That the Town hereby resolves that the Town adopts a policy to encourage parents and caregivers of children to: refrain from the use of corporal punishment; use alternative nonviolent methods of child discipline and management, with an ultimate goal of mutual respect between parent and child; and take advantage of the Arlington Youth Consultation Center, which is available to offer parents support, information, and direction regarding effective disciplinary methods. This policy statement is in no way intended to undermine parental authority or familial autonomy. Its goal is to promote and advocate mutually respectfully relationship between children and their parents and encourage thoughtful determination of discipline methods.

(3-0)

Mrs. Mahon and Mr. Greeley were absent

**COMMENT:** The Board supports this resolution in the hopes that it will encourage parents and caregivers to refrain from the use of corporal punishment and use alternative nonviolent methods of children discipline. The policy is meant to be a gentle, reasonable and respectful policy of encouragement. It is hoped that this policy could be posted in public areas such as doctors' offices and childcare facilities. Its only purpose would be to foster a thoughtful discussion on how children are disciplined. The adoption of this resolution would be consistent with the goals established by the United States Surgeon General's Workshop on Violence and Public Health.

**Source: Office of the Board of Selectmen**